S.B.CIVIL WRIT PETITION NO.1779/1995

Vijai Kumar vs. State of Rajasthan & Ors.

DATE OF ORDER :: 19th April, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. I.S.Pareek, for the petitioner.
Mr. S.S.Ladrecha, Additional Government Advocate.

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By this petition for writ the petitioner has claimed for promotion as LDC from the Cadre of Class IV employees. According to the averments contained in writ petition the petitioner is possessing the qualification of "Prathama" from Hindi Sahitya Sammellan that he acquired in the year 1982-83. Appointment was given to him as a Class IV employee in the year 1988 and in view of Rule 9 of the Rajasthan Subordinate Offices Ministerial Staff Rules, 1957 on acquiring experience of five years service he become eligible to be considered for promotion to the post of Lower Division Clerk. This Court in the case of Heeralal Ninama Vs. State of Rajasthan & Anr. while considering the same controversy held as under:

> "The petitioner is having the qualification of "Prathama" from Hindi Sahitya Sammellan but not any of the qualification prescribed under Rule 12 of the Rules of 1957. It is pertinent to note that prior to 28.6.1985 an incumbent having the qualification of "Prathama" was also treated eligible to be recruited as Lower Division Clerk, however, the aforesaid qualification was deleted

from the eligibility clause under a notification No.F.3(53) DOP/A-II/84 dated 5.12.1987. The petitioner after 28.6.1985 is not having the qualification to be considered for appointment as Lower Division Clerk. Pertinent to note here that the petitioner being appointed as Class-IV employee in the year 1983 completed five years of service in the year 1988, therefore, his eligibility to be considered for promotion to the post of Lower Division Clerk was to be examined in accordance with the Rules of 1957 after the year 1988. The petitioner being not possessing the qualification in accordance with Rule 12 of the Rules of 1957 in the year 1988 or subsequent thereto was rightly denied promotion by the respondents."

In view of it the petitioner being not possessing the qualification in accordance with Rule 12 of the Rules of 1957 in the year 1993 or subsequent years thereto is not entitled for promotion to the post of Lower Division Clerk under the Rules of 1957.

This petition for writ is accordingly dismissed.

(GOVIND MATHUR),J.

jgoyal